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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,866	06/26/2003	Yunoh Jung	20862.B.NP	5518
20551	7590	11/19/2004	EXAMINER	
THORPE NORTH & WESTERN, LLP. 8180 SOUTH 700 EAST, SUITE 200 P.O. BOX 1219 SANDY, UT 84070			MANAHAN, TODD E	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,866

Applicant(s)

JUNG ET AL.

Examiner

Todd E. Manahan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,8-28 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4,8-10,36 and 37 is/are allowed.
- 6) ☒ Claim(s) 11-28,31-35,38 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

Applicant is advised that should claim 32 be found allowable, claim 35 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Cho (United States Patent No. 5,913,681).

Cho discloses a dental articulator device comprising a pair of U-shaped trays 158,160 at least one of which is open through a middle 176 of the U-shape and having an inner circumferential wall 168 that is straight from top to bottom thereof (see figure 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 11-16, 18-25, 27, 28, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter (United States Patent No. 5,466,152) in view of Presswood (United States Patent No. 5,403,185).

Walter discloses the invention essentially as claimed except for pressing the registration pin through a thin piercable membrane extending across the registration holes. Presswood discloses that it is known in the art to provide an articulator tray with a thin membrane extending across the apertures therein and piercing it by a registration pin in order to prevent dental plaster from leaking thru the registration holes in the tray (see col. 4, lines 1-22). It would have been obvious to one skilled in the art to provide the device of Walter with a thin membrane extending across the registration pin holes and then press the registration pin through the membrane in view of Presswood in order to prevent leakage of dental plaster thru the registration holes. With regard to the other structure, such as the hinge structure, which may not be present in Walter, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

Claims 11-17, 19-26, 28, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman (United States Patent No. 5,788,489) in view of Presswood.

Huffman discloses the invention essentially as claimed except for pressing the registration pin through a thin piercable membrane extending across the registration holes. Presswood discloses that it is known in the art to provide an articulator tray with a thin membrane extending across the apertures therein and piercing it by a registration pin in order to prevent dental plaster from leaking thru the registration holes in the tray (see col. 4, lines 1-22).

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It would have been obvious to one skilled in the art to provide the device of Huffman with a thin membrane extending across the registration pin holes and then press the registration pin through the membrane in view of Presswood in order to prevent leakage of dental plaster thru the registration holes. With regard to claim 17, Huffman discloses registration struts 7 over which the plaster is disposed. With regard to the other structure, such as the struts being hexagonal, which may not be shown by Huffman, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

Claims 32, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Whelan (United States Patent No. 4,439,151).

Cho discloses the invention essentially as claimed except for the pair of posterior stop rods. Whelan discloses an articulator having a stop rod 29 coupled to one tray and extendable to the other to maintain the trays in predetermined relationship (see col. 3, lines 26-37). It would have been obvious to one skilled in the art to provide the articulator of Cho with a stop rod in view of Whelan in order to maintain the trays in predetermined relationship. To have a pair of such stop rods would have been further obvious, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

Claims 1, 3, 4, 8-10, 36 and 37 are allowed.

Response to Arguments

Applicant's arguments with respect to claim 31 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 09 August 2004 have been fully considered but they are not persuasive.

In response to applicant's arguments that Presswood "teaches away" from the other references of the combination, such does not appear to be the case. Contrary to applicant's arguments, the pins in the device of Presswood are left in place after being pressed through the membrane and then the dental plaster is poured over the pins, while they remain in place, just like the pins remain in place and the dental plaster poured thereon in the methods disclosed by Huffman and Walter in order to prevent the dental plaster from leaking through the registration holes (see col. 4, lines 26-65). Clearly Presswood does not "teach away" from the other references.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

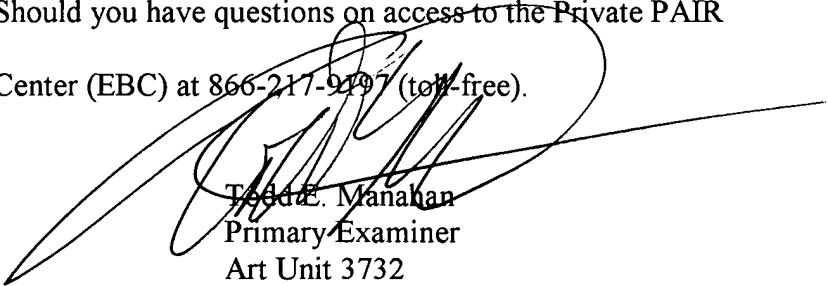
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571 273-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9497 (toll-free).



Todd E. Manahan
Primary Examiner
Art Unit 3732

T.E. Manahan
15 November 2004